

Message Text

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R 212212Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO

UNCLAS STATE 199455

E.O. 11652: N/A

TAGS: PFOR, CI

SUBJECT: EXTRADITION TREATY NEGOTIATIONS -- CHILE.

1. THE FOLLOWING CONSTITUTE THE COMMENTS AND SUGGESTIONS OF DEPARTMENT AND THE DEPARTMENT OF JUSTICE WITH RESPECT TO THE DRAFT TREATY INITIALED IN SANTIAGO ON APRIL 29, 1975. THE COMMENTS HAVE BEEN REVISED AND ARE BASED UPON THE MAY 30 TEXTS SENT GAITHER FROM STEVEN BY LETTER DATED JUNE 2, 1975. UNLESS OTHERWISE INDICATED, THE REWORKING OF THE APRIL TEXT IS ACCEPTABLE. PLEASE CONVEY APPRECIATION TO BAZAN FOR HIS CHANGES AND INDICATE PROPOSED CHANGES CONTAINED IN THIS CABLE ARE ALSO INTENDED TO ALIGH THE TEXTS AS CLOSELY AS POSSIBLE. IN REVIEWING THE COMMENTS IT IS HOPED THAT THE CHILEAN NEGOTIATORS WILL APPRECIATE THE DESIRE ON THE PART OF THE DEPARTMENT, WHICH HAS BEEN SHARED BY THE CHILEAN NEGOTIATORS, THAT THE TWO TEXTS BE EQUIVALENT INsofar AS IS PRACTICABLE GIVEN DIFFERENCES IN THE LEGAL SYSTEMS.

2. WITH RESPECT TO ARTICLE 2, IT MAY BE APPRECIATED THAT UNCLASSIFIED

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THIS TREATY AND ITS USE WILL OUTLIVE THE NEGOTIATORS. WHILE IT IS THE PRACTICE OF THE DEPARTMENT WHEN MAKING AN EXTRADITION REQUEST TO USE THE TERMINOLOGY OF THE TREATY AND

TRANSLATE THE OFFENSE ACCORDINGLY, WE CANNOT GUARANTEE THAT THIS SYSTEM WILL CONTINUE. SHOULD, FOR EXAMPLE, AN EXTRADITION REQUEST FROM THE U.S. BE BASED ON THE U.S. OFFENSE OF "OBSTRUCTION OF JUSTICE" AND SHOULD THIS BE TRANSLATED AS "OBSTRUCCION DE LA JUSTICIA," A JUDGE LOOKING AT THE SPANISH TEXT MIGHT HOLD THAT THIS IS NOT AN OFFENSE INCLUDED IN THE TREATY UNLESS THE SPECIFIC PHRASEOLOGY IS INCLUDED. (SEE OFFENSE 18 AS NOW AGREED IN DRAFT.) WHILE NEITHER GOVERNMENT WOULD AGREE WITH THIS INTERPRETATION, THE INITIAL DECISION COULD RESULT IN THE RELEASE OF THE INDIVIDUAL AND SUBSEQUENT DEPARTURE BEFORE A NEW REQUEST OR APPEAL BE TAKEN. ACCORDINGLY, THE DEPARTMENT IS NOW OF THE VIEW THAT IT WOULD BE PREFERABLE TO HAVE THE LANGUAGE OF ARTICLE II AS CLOSELY ALIGNED AS POSSIBLE. THIS CAN BE ACCOMPLISHED EITHER BY DIRECT TRANSLATION OR INDIRECT TRANSLATION, I.E., THE USE OF THE PHRASE, "INCLUDING THE OFFENSE OF ..."

3. HERE FOLLOW SUGGESTED CHANGES AND COMMENTS:

ARTICLE I -- NONE.

ARTICLE II -- INITIAL PARAGRAPH, TYPO IN SPANISH TEXT, LINE 2, THE WORD "ESTEN" SHOULD HAVE AN ACCENT OVER THE SECOND "E." SAME PARAGRAPH, LINE 3: TO ALIGN TEXTS DEPARTMENT WOULD SUGGEST DELETION OF THE PHRASE 'ENSEGUIDA' (WHICH TYPO -- SHOULD BE TWO WORDS) AND INSERTION BEFORE THE COMMA THAT FOLLOWS IN THAT LINE, "A CONTINUACION." (SEE ADDENDUM TO ARTICLE II AT END OF PARA 3, THIS TEL.)
OFFENSE 2: IN SPANISH TEXT SUGGEST THAT IN LIEU OF COMMA THE CONJUNCTION "O" BE INSERTED. OFFENSE JUST LISTED IS ONE OFFENSE AND WITH COMMA IT COULD BE MISUNDERSTOOD AS BEING TWO OFFENSES.

OFFENSE 4: LINES 3-4: SPANISH TEXT DID NOT COME THROUGH IN REPRODUCTION. ASSUME PHRASE READS, "LAS LEGISLACIONES PENALES." IF NOT, HAVE TYPOS: ACCENT OVER "O"
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IN "LEGISLACION" AND "PENALES" SHOULD BE SINGULAR.

OFFENSE 6: TYPO SPANISH TEXT: THERE SHOULD BE AN ACCENT OVER THE FIRST "A" IN THE WORD "DESVALIDAS."

OFFENSE 8: THE INSERTION IN THE ENGLISH TEXT OF "OF A PERSON," IS UNDERSTOOD TO BE FOR ALIGNMENT PURPOSES AND IS ACCEPTABLE. IT IS UNDERSTOOD THAT "PERSON" INCLUDES BOTH MINORS AND ADULTS.

OFFENSE 10: THE WORD "AMENAZA" IS SINGULARIZED IN THE SPANISH TEXT BUT PLURAL IN THE ENGLISH TEXT. QUERY WHETHER THE SPANISH SHOULD BE PLURALIZED.

OFFENSE 12: IN SPANISH TEXT SUGGEST THE INSERTION OF THE WORD "INTENCIONALES" AFTER THE WORD "DANOS." DEPARTMENT IS OF VIEW THAT WITHOUT INSERTION OF THIS PHRASE THE ENGLISH CONCEPT OF "MALICIOUS" IS LOST IN THE TRANSLATION. IN ENGLISH TEXT SUGGEST SEMICOLON AFTER "ARSON" SINCE TWO OFFENSES FAIRLY DIFFERENT IN CONCEPT. NO CHANGE IN SPANISH TEXT NEEDED.

OFFENSE 14: FOR A BETTER ALIGNMENT OF THE TEXTS DEPARTMENT SUGGESTS DELETION IN SPANISH TEXT OF "ESPECIES VALORADAS" IN SECOND LINE AND THE INSERTION OF "ESTAMPILLAS DE CORREO Y OTROS INSTRUMENTOS DE CARACTER OFICIAL," AND THE INSERTION IN LINE 3 BEFORE "SELLOS" OF THE PHRASE "BONOS DEL GOBIERNO,".

OFFENSE 16: INSERT IN LINE 4 OF SPANISH TEXT BEFORE WORD "CONTRA" THE PHRASE "A BORDO." THIS PHRASE WAS NOT TRANSLATED IN THE SPANISH TEXT.

IN U.S. TEXT FOLLOWING CHANGE WAS MADE IN LINE 8:
"DESTRUCTION OF AN AIRCRAFT; DAMAGE OF AN AIRCRAFT ..."
THIS CHANGE IS SUBSTANTIVE. THE INTENTION WAS TO FOLLOW THE MONTREAL CONVENTION, ARTICLE 1:1(B). THE CONCEPT IS THE DESTRUCTION OR DAMAGE OF AN AIRCRAFT WHICH RENDERS IT INCAPABLE OF FLIGHT. THEREFORE, THE TEXT SHOULD REMAIN UNCHANGED IN THIS PORTION. IT SHOULD READ "DESTRUCTION OR DAMAGE OF AIRCRAFT IN FLIGHT..."
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THE ALTERATION OF THE SPANISH TEXT SHOULD BE CORRECTED FOR THE SAME REASON. THE ORIGINAL TEXT WITHOUT THE PENNED CHANGES WAS CORRECT.

OFFENSE 17: FOR ALIGNMENT OF THE TEXTS SUGGEST IT PREFERABLE AT BEGINNING OF THIRD LINE IN SPANISH TEXT TO USE PHRASE "ILICITOS" IN LIEU OF ILEGITIMOS."

IN LINE 7 OF OFFENSE 17, SPANISH TEXT, IT IS SUGGESTED THAT THE WORD "CONTAMINACION" WOULD BE PREFERABLE TO "INFECCION."

IN THE ENGLISH TEXT OF OFFENSE 17, DEPARTMENT WOULD PREFER, FOR REASONS OF IMPROVED CONSTRUCTION, TO INSERT IN LINE 6 THE ARTICLE "THE" BEFORE THE WORD "POISONING," AND ON LINE 8 INSERT THE ARTICLE "THE" BEFORE THE WORD "DISSEMINATION." THESE CHANGES ARE INTENDED TO BE DRAFTING AND NON-SUBSTANTIVE CHANGES.

OFFENSE 18: ALTHOUGH WE UNDERSTAND THAT THE SPANISH TEXT INCLUDES THE CONCEPT OF OBSTRUCTION OF JUSTICE, DEPARTMENT WOULD PREFER AS EXPLAINED IN PARA 2 ABOVE TO HAVE

THE SPANISH TEXT INCLUDE THAT TERMINOLOGY. THE DEPARTMENT WOULD THEREFORE PREFER TO ADD TO THE PRESENT SPANISH TEXT, "OBSTRUCCION DE LA JUSTICIA;" OR DELETE PRESENT SEMICOLON AT END OF OFFENSE, ADD COMMA AND "INCLUYENDO LA OBSTRUCCION DE LA JUSTICIA."

OFFENSE 20: DEPARTMENT IS OF VIEW THAT SPANISH TEXT, SECOND PORTION OF THIS OFFENSE, DOES NOT YET INCLUDE THE CONCEPT WHICH THE U.S. SIDE INTENDED, I.E., THAT EACH PART OF THE ITEM BE MODIFIED BY THE REFERENCE TO A SENTENCE FOR A TERM IN EXCESS OF ONE YEAR. (AS NOW DRAFTED, APPEARS SENTENCE REFERS TO TERM OF SENTENCE OF PUBLIC OFFICIAL RATHER THAN TERM OF SENTENCE OF ESCAPEE.) ACCORDINGLY, DEPARTMENT WOULD PROPOSE THE FOLLOWING TEXT FOR THE PRESENT SPANISH TEXT OF OFFENSE 20: (SEE ADDENDUM 2, FOLLOWING FIRST ADDENDUM AT END OF PARA 3, THIS TEL.)

OFFENSE 22: IN SECOND LINE, FOR THE PURPOSES OF ALIGN-
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MENT, IT IS SUGGESTED THAT THE SPANISH TEXT BE AMENDED BY REPLACING "O AGENCIA" WITH "U ORGANISMO."

OFFENSE 25: THE FOLLOWING IS PUT FORTH FOR THE PURPOSES OF POSSIBLE ALIGNMENT: REPLACE THE PHRASE FOLLOWING WORD "DELITO" WITH "CONTRA LAS LEYES DE QUIEBRAS O INSOLVENCIAS FRAUDULENTAS."

ARTICLE III -- IN LINE 3 OF SPANISH TEXT SUGGEST SUBSTITUTION OF "INSTIGACION" FOR "PROPOSICION" FOR CLOSER TRANSLATION.

IN LAST LINE OF FIRST PARAGRAPH, SPANISH TEXT,
TYPO: "A UN ANO" NOT "DE UN ANO."

IN THIRD PARAGRAPH, LINE 2, BELIEVE "A UNO
REFERIDO" ALIGNS TEXTS BETTER THAN "AL REFERIDO."

IN FOURTH PARAGRAPH, SPANISH TEXT, LINE 2, TYPO:
"AUN" SHOULD NOT HAVE ACCENT. NEXT LINE, "AL" SHOULD READ
"A UN" FOR BETTER ALIGNMENT.

ARTICLE IV -- IN LINE 3, SPANISH TEXT, INSERT "ESTA"
WITH ACCENT OVER "E" AFTER "CUAL" FOR CLARITY. IN SAME
PARAGRAPH, NEXT PAGE (4), END LINE 3, TYPO: SHOULD BE
ACCENT OVER LAST "A" IN "CONSIDERARA."

ARTICLE V -- IN FIRST PARAGRAPH, DELETION IN BOTH
TEXTS OF REFERENCE TO "EXECUTIVE AUTHORITY/PODER EJECUTIVO"
OF THE UNITED STATES CREATES A SUBSTANTIVE PROBLEM. DE-
PARTMENT WISHES EXPLICIT GRANT OF AUTHORITY IN THIS
ARTICLE AND THEREFORE WOULD PREFER NOT TO AMEND THIS
ARTICLE AS INDICATED BY HANDWRITTEN CHANGES.

ARTICLE VI --IN SPANISH TEXT THE CONJUNCTION "O" WAS USED BETWEEN "READAPTACION" AND "REHABILITACION." THE CONJUNCTION IN THE FIRST ENGLISH TEXT WAS "AND" WHICH HAS NOW BEEN CHANGED TO "OR" FOR ALIGNMENT PURPOSES. WE HAD INTENDED TO HAVE THIS A RATHER RESTRICTED ARTICLE AND WOULD PREFER THE CONJUNCTION "AND" AND "Y" IN THE RESPECTIVE TEXTS. THIS WAS THE CONJUNCTION USED IN THE ARGENTINE TREATY (ARTICLE 6) ON WHICH THIS ARTICLE WAS UNCLASSIFIED

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BASED.

ARTICLE VII -- IN SUBPARAGRAPH 5, LINE 7, DELETE "ANY OF" BEFORE "THE PROVISIONS" TO ALIGN WITH SPANISH TEXT

IN SECOND FULL PARAGRAPH OF ENGLISH TEXT, "CANNOT" SHOULD READ "SHALL NOT." NO CHANGE IN SPANISH TEXT.

IN SPANISH TEXT, SUBPARAGRAPH B OF THIS PARAGRAPH, NOTE TYPO IN LINE 2: "QUIEN" SHOULD HAVE NO ACCENT.

RE ISSUE OF DIFFERENCES IN TRANSLATION OF SPANISH AND ENGLISH TEXTS OF SUBPARAGRAPH C, DEPARTMENT APPRECIATES POINT MADE AND HAS GIVEN IT CAREFUL CONSIDERATION. THERE HAS NEVER BEEN ANY INTENTION TO EXCLUDE COVERAGE OF A PASSENGER AIRCRAFT WHICH AT THE TIME OF THE COMMISSION OF THE OFFENSE DID NOT HAVE PASSENGERS ON BOARD -- I.E., ONLY CREW ON BOARD. IN THIS REGARD THE UNAMENDED SPANISH TEXT APPEARS TO MORE ACCURATELY REFLECT THE COVERAGE INTENDED. THE ORIGINAL ENGLISH TEXT WAS DRAFTED SO AS TO EXCLUDE THAT WHICH IS EXCLUDED BY ARTICLE 1:4 OF THE TOKYO CONVENTION, "AIRCRAFT USED IN MILITARY, CUSTOMS OR POLICE SERVICES." SINCE THE ENGLISH VERSION OF THIS IMPORTANT CLAUSE APPEARS IN OTHER TREATIES, DEPARTMENT WOULD PREFER TO RELY ON THE NEGOTIATING HISTORY RATHER THAN CHANGE THE ENGLISH TEXT WHICH MIGHT THEN CAUSE DIFFICULTIES OF INTERPRETATION OF THE SAME PROVISIONS IN THE OTHER TREATIES. THUS DEPARTMENT WOULD PREFER TO LEAVE BOTH TEXTS AS ORIGINALLY AGREED.

ARTICLE VIII -- IN SPANISH TEXT, LINES 1-2, SUGGEST SUBSTITUTION OF "FUERA PUNIBLE" FOR "PUEDA SER CASTIGADO." BELIEVE FORMER IS A MORE LITERAL TRANSLATION OF "PUNISHABLE." IT IS PHRASEOLOGY USED IN ARTICLE 8 OF U.S./ ARGENTINE TREATY.

IN LINE 3 OF THE ENGLISH TEXT, THE WORD "COUNTRY" WAS USED TO AVOID LIMITING THE APPLICATION OF THE CLAUSE TO FEDERAL CASES. IT IS SUGGESTED THAT THE BEST SOLUTION TO AVOID THIS WOULD BE TO KEEP THE WORD "COUNTRY" OR USE

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THE PHRASE, "IN THE REQUESTED STATE." IN EITHER EVENT, WE SUGGEST NO CHANGE BE MADE TO THE SPANISH TEXT.

LINES 4-5 OF SPANISH TEXT WERE AGREED TO READ, "LA EXTRADICION RECLAMADA PODRA SER DENEGADA A MENOS QUE LA PARTE REQUIRENTE LE OTORGUE GARANTIAS SUFICIENTES..." ON RECONSIDERATION, DEPARTMENT IS OF VIEW THAT SPANISH TEXT MAY BE AMBIGUOUS IN SENSE THAT IT IS NOT ENTIRELY CLEAR WHICH PARTY MAKES THE DETERMINATION AS TO THE SUFFICIENCY OF THE ASSURANCES. THE ENGLISH TEXT IS QUITE CLEAR ON THIS POINT AND DEPARTMENT WOULD THEREFORE PREFER TO AMEND LAST PART OF PROVISION OF SPANISH TEXT TO READ, "A MENOS QUE LA PARTE REQUIRENTE OTORGUE LAS GARANTIAS QUE LA PARTE REQUERIDA CONSIDERE SUFICIENTES..."

ARTICLE IX -- THE DEPARTMENT APPRECIATES THE FACT THAT THERE IS A DIFFERENCE IN THE TRANSLATION OF THIS ARTICLE. THIS DIFFERENCE WAS AGREED TO WHEN NEGOTIATED WITH ARGENTINA. THE PHRASE, "FULL EXECUTION OF THE SENTENCE" AS UNDERSTOOD BY DEPARTMENT AND JUSTICE INCLUDES THE CONCEPT OF A PARDON. THE ARGENTINE AUTHORITIES WISHED THIS CONCEPT TO BE SPELLED OUT AND THE RESULT WAS A SLIGHT DIFFERENCE IN THE TEXTS DUE TO THE DIFFERENCES IN THE LEGAL SYSTEMS. UNLESS THE CHILEAN NEGOTIATORS FEEL STRONGLY OTHERWISE, DEPARTMENT WOULD PREFER TO LEAVE THE TEXTS AS THEY NOW ARE.

ARTICLE X -- NO CHANGES.

ARTICLE XI -- RE SUBPARAGRAPH 1C, DEPARTMENT WISHES TO POSE A PROBLEM TO BE CONSIDERED BY CHILEAN REPRESENTATIVES:

THERE IS A SUBSTANTIVE DIFFERENCE BETWEEN THE TWO TEXTS CAUSED BY THE USE IN THE ENGLISH TEXT OF "OR" AND IN THE SPANISH TEXT OF "AND" ("Y"). THE RESULT IS TO CREATE AN OBLIGATION ON THE UNITED STATES TO SUPPLY THE LAWS RELATING BOTH TO THE PRESCRIPTION OF THE OFFENSE AND REPEAT AND OF THE PENALTY, WHEREAS A CHILEAN REQUEST WOULD NEED TO SUPPLY ONE OR REPEAT OR THE OTHER. THERE IS, GENERALLY SPEAKING, NO PROVISION IN UNITED STATES LAW WHICH PRESCRIBES THE ENFORCEMENT OF THE PENALTY. IF THERE IS

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SUCH A PRESCRIPTION UNDER CHILEAN LAW, IT IS SUGGESTED THAT THE SPANISH TEXT BE MAINTAINED AS IT NOW STANDS AND THAT IN THE ENGLISH TEXT THE WORD "OR" BE CHANGED TO "AND." UNITED STATES REQUESTS WILL CONTAIN A STATEMENT TO THE EFFECT THAT THERE IS NO PRESCRIPTION FOR THE PENALTY. IF,

ON THE OTHER HAND, THERE IS NO PRESCRIPTION FOR THE PEN-ALTY UNDER THE LAWS OF CHILE, THE DEPARTMENT WOULD SUGGEST THAT THE FINAL PHRASE IN BOTH TEXTS RELATING TO THE PEN-ALTY BE DELETED. THE DEPARTMENT HAS NOTED THAT THE SAME SUBSTANTIVE DIFFERENCE IS ALSO CONTAINED IN THE TREATIES BETWEEN THE UNITED STATES AND ARGENTINA, PARAGUAY, URUGUAY AND SPAIN.

IN PARAGRAPH 3 OF SPANISH TEXT, NOTE TYPO: "EMANA-DOS" SHOULD BE SINGULAR.

IN PARAGRAPH 4 OF SPANISH TEXT, NOTE TYPO: "DEBAN" SHOULD READ "DEBEN."

IN SUBPARAGRAPH A OF SPANISH TEXT, DEPARTMENT UNDERSTANDS THAT PREFERABLE SPELLING IS "AUTENTICADA" NOT "AUTENTIFICADA."

IN SUBPARAGRAPH B OF ENGLISH TEXT, THIS PARAGRAPH, CHANGE "OFFICER OF THE UNITED STATES" TO READ "PUBLIC OFFICER IN THE UNITED STATES." ONLY CORRESPONDING CHANGE NECESSARY IN SPANISH TEXT WOULD BE REPLACEMENT OF "EN" FOR "DE" BEFORE "LOS ESTADOS UNIDOS" IN THIRD LINE OF WHAT IS NOW SUBPARAGRAPH B. REASON FOR THIS CHANGE IS FOLLOWING: PARAGRAPH 2A OF THIS ARTICLE REQUIRES A STATEMENT OF THE FACTS OF THE CASE. THIS WOULD COME FROM A STATE OFFICIAL IN A STATE OFFENSE AS OPPOSED TO A FEDERAL OFFENSE, YET AS DRAFTED, PARAGRAPH 4B WOULD REQUIRE THE SIGNATURE OF A FEDERAL OFFICER. THE AMENDMENT WOULD PERMIT STATE OFFICIALS TO SIGN SUCH STATEMENTS WHICH WOULD THEN, UNDER THE OTHER REQUIREMENTS OF THE SUBPARAGRAPH, HAVE TO BE AUTHENTICATED BY THE DEPARTMENT'S SEAL AND CERTIFIED BY THE EMBASSY OF CHILE.

ARTICLE XII -- IN FIRST PARAGRAPH, LINE 3, ENGLISH TEXT, THE PHRASE "CHARGED OR CONVICTED" IS USED. JUSTICE UNCLASSIFIED

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WOULD PREFER IT REVERT TO ORIGINAL PHRASE, "ACCUSED OR CONVICTED" WHICH PREFERABLE UNDER U.S. SYSTEM.

SENTENCE BE REVISED TO READ:

"ESTA SOLICITUD PODRA SER ACOGIDA, SI EN ELLA SE IDENTIFICA AL INCUPLADO, SE DESCRIBE EL DELITO QUE SE LE IMPUTA, SE INDICA LA FINALIDAD DE LA SOLICITUD DE EXTRADICION, Y SE INFORMA QUE EXISTE EN SU CONTRA UNA ORDEN DE ARRESTO O UNA SENTENCIA DE CULPABILIDAD O CONDENATORIA."

THE ABOVE REVISION IS INTENDED TO MORE CLEARLY EXPRESS THE INTENT OF THE PROVISION. AS DEPARTMENT INTERPRETS PRESENT TEXT, "SE ANUNCIA EL PROPOSITO DE PEDIR SU EXTRADICION"

IMPLIES AN OBLIGATION TO EXPLAIN THE REASONS BEHIND THE DESIRE TO MAKE THE REQUEST. AS DEPARTMENT UNDERSTANDS AGREEMENT, INTENT IS ONLY TO SUPPLY THE PURPOSE FOR THE REQUEST, I.E., TO PROSECUTE A FUGITIVE OR CONVICTED PERSON WHO COMMITTED OR ALLEGEDLY COMMITTED THE OFFENSE WHICH IS DESCRIBED. THE AMENDMENT OF THE LAST PART OF THE SENTENCE IS INTENDED TO HAVE THE SPANISH TEXT MORE CLOSELY TRACK THE ENGLISH.

IN SECOND PARAGRAPH, SPANISH TEXT, DEPARTMENT WOULD SUGGEST SUBSTITUTION OF "AL CONCEDERSE LA SOLICITUD PARA" FOR "DECRETADA," OPENING WORD OF SENTENCE. THIS SUGGESTION BASED ON ASSUMPTION THAT GRANTING OF REQUEST FOR PROVISIONAL ARREST IS NOT ACCOMPLISHED BY DECREE. IF THIS NOT SO, WORD "DECRETADA" SHOULD BE RETAINED.

IN THIRD PARAGRAPH, SPANISH TEXT, SUGGEST TWO CHANGES IN FIRST SENTENCE FOR PURPOSE OF ALIGNING TEXTS: BEGIN SENTENCE WITH "JUNTO CON LA SOLICITUD PARA LA DETENCION" RATHER THAN "JUNTO CON LA DETENCION." INSERT COMMA AND "SU AGENTE, ASOCIADO O REPRESENTANTE," FOR "O UN TERCERO EN SU NOMBRE." WHILE DEPARTMENT AGREES THAT SUBSTANTIVELY THESE WORD-FOR-WORD TRANSLATIONS MAY NOT BE ESSENTIAL, IT IS FELT TO BE MORE LITERAL AND THEREFORE PREFERABLE.

IN LAST SENTENCE, LAST PARAGRAPH OF SPANISH TEXT,
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SUGGEST REPLACE "APREHENSION" WITH "SOLICITUD" FOR MORE LITERAL TRANSLATION.

ARTICLE XIII -- IN FIRST LINE OF FIRST PARAGRAPH, SPANISH TEXT, DEPARTMENT WOULD PREFER "COMPROBANTES" IN LIEU OF "PROBANZAS." FORMER WORD IS THAT CONTAINED IN U.S./ARGENTINE, PARAGUAYAN AND SPANISH TREATIES.

IN SECOND PARAGRAPH, ALSO SPANISH TEXT, DEPARTMENT WOULD PREFER SUBSTITUTE "LOS COMPROBANTES O INFORMACIONES" FOR "LA DOCUMENTACION." SENTENCE WILL THEN HAVE TO BE ALTERED AS FOLLOWS:

"SI LOS COMPROBANTES O INFORMACIONES SOLICITADAS NO LLEGAREN DENTRO DEL PLAZO FIJADO O LAS PRESENTADAS RESULTAREN INSUFICIENTES..."

IN SECOND SENTENCE THIS PARAGRAPH, DEPARTMENT WOULD PREFER "NUEVA DOCUMENTACION," IN LIEU OF "NUEVOS ANTECEDENTES," FOR PURPOSES OF ALIGNMENT OF TEXTS.

ARTICLE XIV -- AT END OF SUBPARAGRAPH 2 WE HAVE CONJUNCTION "AND," "Y" IN THE TWO TEXTS. WOULD "OR," "O" BE

PREFERABLE? DEPARTMENT HAS SLIGHT PREFERENCE PRESENT TEXT,
BUT WISHES RAISE MATTER.

ARTICLE XV -- IN FIRST PARAGRAPH SPANISH TEXT, THE
INITIAL LINE SHOULD BE AMENDED TO READ AS FOLLOWS FOR CON-
SISTENCY WITHIN THE TEXT: "LA PARTE REQUERIDA QUE RECIBA
DOS O MAS SOLICITUDES..." "PARTE CONTRATANTES" AS IT NOW
APPEARS IN MAY 30 TEXT APPEARS NOT AS ACCURATE, ALTHOUGH
IT IS NOT IN ERROR. ACCORDINGLY, WE WOULD PREFER TO RE-
TAIN "REQUESTED PARTY" IN ENGLISH TEXT AND "UPON RECEIVING
," NOT "RECEIVING FROM." "THE REQUESTING STATES," NOW
AMENDED TO READ "THEM," SHOULD BE RETAINED.

IN THE LAST LINE OF THIS PARAGRAPH, SPANISH TEXT,
INSERT "ESTADOS" BEFORE "REQUIRENTES" FOR ALIGNMENT PUR-
POSES.

ARTICLE XVI -- IN LIGHT OF CHANGE IN ENGLISH TEXT IN
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SECOND PARAGRAPH, THIS ARTICLE, OF CONJUNCTION "AND" (AT
END OF LINE 5), A COMMA SHOULD NOW BE INSERTED AFTER THE
WORD "STATES" IN THE PENULTIMATE LINE. INSERTION OF COMMA
IN SIMILAR LOCATION IN SPANISH TEXT SHOULD BE CONSIDERED
THOUGH NOT ESSENTIAL FROM DEPARTMENT'S VIEW.

ARTICLE XVII -- IN SECOND LINE, SPANISH TEXT, OF
ARTICLE, SUGGEST INSERTION OF ARTICLE "EL" BEFORE "MEJOR"
FOR ALIGNMENT.

AT END OF THIRD LINE, SAME TEXT, SUGGEST "OBJETOS
DE VALOR" INSTEAD OF "OBJETOS, VALORES" ETC. BELIEVE WITH-
OUT THIS CHANGE THERE IS A SUBSTANTIVE DIFFERENCE IN THE
TEXTS WHICH WAS NOT INTENDED.

ARTICLE XVIII -- IN LAST LINE OF FIRST PARAGRAPH, SPAN-
ISH TEXT, SUGGEST REPLACEMENT OF "DE LA RESOLUCION QUE
ACOGIO LA EXTRADICION." WITH "DEL MANDATO DE ARRESTO U
ORDEN DE EXTRADICION."

ARTICLE XIX -- NONE.

ARTICLE XX -- IN PENULTIMATE LINE OF FIRST PARAGRAPH,
SUGGEST DELETION OF PREPOSITION "A" IN "A LA REPRESENTA-
CION...". SAME CHANGE IN SECOND LINE, SECOND PARAGRAPH.

IN SECOND PARAGRAPH SUGGEST INSERTION SHOULD HAVE
READ, "DEL GOBIERNO DE LA REPUBLICA..." THE "DE" WAS
INADVERTENTLY LEFT OUT.

ARTICLE XXI -- NONE.

ARTICLE XXII -- IN THE SECOND PARAGRAPH THE DEPARTMENT WOULD PREFER THE INSERTION AFTER THE WORD "TERMINATED" IN LINE 3, OF THE PHRASE "IN WRITING." THE SPANISH TEXT WOULD REQUIRE INSERTION BEFORE THE PERIOD OF THE FIRST SENTENCE OF THE PHRASE "POR ESCRITO." THE DEPARTMENT HAS HAD A RECENT CASE WHEREIN THE ISSUE AROSE AS TO WHAT CONSTITUTED NOTICE. WE BELIEVE THIS AMENDMENT WOULD RESOLVE ANY POSSIBLE MISUNDERSTANDING WITH RESPECT TO THE MANNER OF TERMINATION.
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IN THE THIRD PARAGRAPH, FIRST PHRASE, SPANISH TEXT, SUGGEST "AL ENTRAR" WOULD BE PREFERABLE TO "JUNTO CON ENTRAR."

FINAL CLAUSE - UNDER GENERAL TREATY USAGE THIS CLAUSE, "IN WITNESS WHEREOF" ETC., IS SEPARATED FROM THE PRECEDING ARTICLE AS A SEPARATE PROVISION. THIS SHOULD BE DONE IN BOTH TEXTS.

IN ENGLISH TEXT THERE SHOULD BE A LOCATION FOR SIGNING SIMILAR TO THAT CONTAINED IN THE SPANISH TEXT BUT REVERSED -- I.E., "FOR THE UNITED STATES OF AMERICA" FOLLOWED BY "FOR THE REPUBLIC OF CHILE."

(FIRST ADDENDUM TO ARTICLE II):

IN BOTH TEXTS, AS A MATTER OF EASE OF REFERENCE AND READING, DEPARTMENT WOULD PREFER THE NUMBERS TO BE NUMBERED WITHOUT A DASH AFTER THE PERIOD. DEPARTMENT WOULD ALSO PREFER THAT THE ITEM BE FOLLOWED BY A PERIOD RATHER THAN A SEMICOLON AS EACH REFERENCE IS A SEPARATE ITEM (I.E., RATHER THAN "1.- HOMICIDIO;" IT WOULD READ "1. HOMICIDIO.") (END OF FIRST ADDENDUM)

(ADDENDUM 2 TO ARTICLE II, OFFENSE 20):

QUEBRANTAMIENTO DE CONDENA POR UNA PERSONA CONDENADA A MAS DE UN AÑO; CONDUCTA DE UN FUNCIONARIO PUBLICO QUE PERMITA LA EVASION DE UN PRESO O DETENIDO QUE HA SIDO ACUSADO O CONDENADO POR UN DELITO QUE MERECE UNA PENA DE PRIVACION DE LIBERTAD SUPERIOR A UN AÑO. (END OF ADDENDUM 2)

4. EMBASSY REQUESTED OBTAIN COMMENTS GOC AND FORWARD TO DEPARTMENT. PLEASE INFORM GOC THAT UPON RECEIPT OF COMMENTS AND RESOLUTION OF POINTS RAISED THIS CABLE, WE WILL SEEK AUTHORIZATION TO SIGN. PLEASE INDICATE THAT THIS USUALLY REQUIRES 30-60 DAYS.

5. EMBASSY IS REQUESTED TO BASE COMMENTS AND ANY FURTHER
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CHANGES GOC MAY HAVE ON MAY 30 TEXTS SENT GAITHER. DEPARTMENT WILL CONTINUE TO USE THESE TEXTS AS BASIS FOR TREATY.

6. IN VIEW OF THE NUMBER OF CHANGES THE DEPARTMENT HAS PROPOSED, TEXTS IN ENGLISH AND SPANISH MARKED WITH THE PROPOSED CHANGES AND QUESTIONS POSED ARE BEING POUCHED TO EMBASSY, ATTENTION STEVEN. MAW

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Message Attributes

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Document Number: 1975STATE199455
Document Source: ADS
Document Unique ID: 00
Drafter: L/SCA:HRGAITHER:EDD
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D750290-0959
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t197508101/baaaasso.tel
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